IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 995/2006
(Ibrahim Khan Vs. State of Rajasthan)

Date of Order : 13/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. M.K.Garg for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant petition under Section 482 Cr.P.C., the petitioner seeks quashing of History-sheet opened by S.H.O. Police Station, Mandar,district Sirohi against the petitioner.

I have heard learned counsel for the petitioner and public prosecutor for the State. Carefully gone through the material available on record. Mr. Rajendra Choudhary, Sub-Inspector, S.H.O., Police Station Mandar is present in Court along with the relevant record.

It is contended by learned counsel for the petitioner

that there were three cases instituted against the petitioner, one at Gujarat and two at Rajasthan and in all the three cases, after trial, the petitioner has been acquitted. This fact has not been disputed by the concerned S.H.O. and public prosecutor.

Section 4.9 of the Rajasthan Police Rules, 1965 (for short 'the Rules' hereinafter) provides for opening of the History sheets which reads as under :-

> 4.9. **History sheets when opened**.- (1) A history sheet, if one does not already exist, shall be opened in Form 4.9 for every person whose name is entered in the surveillance register, except conditionally released convicts.
>
> (2)A history sheet may be opened by, or under the written orders of a police officer not below the rank of Inspector for any person not entered in the surveillance register who is reasonably believed to be habitually addicted to crime or to be an aider or abettor of such person.

Rule 4.4 of the Rules deals with Surveillance Register which reads as under :-

> **4.4. Surveillance Register No.8**.- (1) In every police station, other than those of the railway police, a Surveillance Register shall be maintained in Form 4.4(1).
>
> (2) In part I of such register shall be entered the names of persons commonly resident within or commonly frequenting the local jurisdiction of the police station concerned, who belong to one or more of the following classes:-
>
> (a) All persons who have been proclaimed under Section 87, Code of Criminal Procedure.

(b) All released convicts in regard to whom an order under section 565, Criminal Procedure Code, has been made.

(c) All convicts the execution of whose sentence is suspended in the whole, or any part of whose punishment has been remitted conditionally under section 401, Criminal Procedure Code.

(d) All persons restricted under Rules of Government made under section 8 of the Rajasthan Habitual Offenders Act, 1953.

(3)In Part II of such register may be entered at the discretion of the Superintendent-

(a) persons who have been convicted twice, or more than twice, of offences mentioned in rule 8.22;

(b) persons who are reasonably believed to be habitual offenders or receivers of stolen property whether they have been convicted or not;

(c) persons under security under section 109 or 110, Code of Criminal Procedure;

(d) convicts released before the expiration of their sentences under the Prisons Act and Remission Rules without the imposition of any conditions.

The case of the petitioner does not fall in any of the classes mentioned in Rule 4.4 of the Rules. There is nothing on record to show that the name of the petitioner is registered in the Surveillance Register or there is reason to believe that he is habitually addicted to crime or to be an aider

or abettor of such persons. In absence of requisite material, in my view, the S.H.O. concerned fell in error in opening the history sheet of the present petitioner.

In the result, the petition is allowed. The history-sheet opened by S.H.O. Police Station, Mandar against the petitioner is quashed.

(H.R.PANWAR),J.

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